

COURT CHECKLIST

FOR FORFEITURE/RETURN OF FIREARMS

Case # _____

Subject's Name _____

Protective Orders

When making a Protective Order, as defined in FC 6218, notify respondent of firearms prohibition and requirement to relinquish firearms after noticed hearing. If respondent is present at the hearing, he or she has 24 hours to relinquish firearms. If respondent is not present at the hearing, he or she has 48 hours after being served to relinquish firearms. (FC 6389(c)). Note: Other Protective Orders may have different time frames.

If respondent fails to present Receipt for Relinquished Firearms, advise LEA to pick-up firearms or issue arrest warrant.

- ☐ Court reviewed Receipt* of Relinquishment on _____ (date) by _____ (court rep.)
* Receipt must show legal transfer of ownership pursuant to PC 12072 or relinquishment to law enforcement agency.
- ☐ If respondent is present, admonish respondent if he or she owns or has in his or her possession or under his or her custody or control any firearms/other deadly weapons they must relinquish the weapons.
 - ☐ Automated Firearms System (AFS) search completed
 - ☐ Date of AFS search _____
 - ☐ AFS search provided by: ☐ LEA ☐ Prosecutor
- ☐ Provide respondent with form DV-800/JV-252 or similar court advisement
- ☐ Within 72 hours of being served, respondent must file with the court a receipt indicating relinquishment of firearms. (FC 6389(c))
 - ☐ Receipt received on _____ (date)
 - ☐ Receipt not received
 - ☐ Warrant issued on _____ (date)
 - ☐ Firearms retrieved by LEA on _____ (date)
- ☐ Exemptions may be granted to the relinquishment order for a particular firearm needed for continued employment (FC 6389(h)). May not provide relief of federal prohibitions.
- ☐ Peace officers may continue to carry a firearm if the court finds the officer does not pose a threat of harm. The court must order a mandatory psychological evaluation prior to granting the exemption. (FC section 6389(h)). May not provide relief of federal lifetime prohibitions.
 - ☐ Date psychological evaluation ordered by court _____
 - ☐ Date psychological evaluation completed _____

Court Notification of Criminal Prohibitions

If subject is convicted of a prohibiting offense as specified in PC 12021, notify subject of firearms prohibition and requirement to relinquish firearms.

- ☐ Admonish defendant if he or she owns or has in his or her possession or under his or her custody or control any firearms/other deadly weapons they must relinquish the weapons.
- ☐ If defendant is subject to a criminal court protective order pursuant to PC 1203.097 he or she must provide receipt showing legal transfer of ownership of firearm(s) pursuant to PC 12072 or relinquishment to law enforcement agency. If no receipt is provided the court may issue a bench warrant and a search warrant for all firearms.
Court reviewed Receipt of Relinquishment on _____ (date) by _____ (court rep.)
- ☐ AFS search provided by: ☐ LEA ☐ Prosecutor
- ☐ Respondent advised of prohibition on _____ (date) by _____ (court rep.)
- ☐ Provided respondent with Prohibited Persons Notice Form and Power of Attorney Declaration for Firearms Transfer and Disposal (FD 110) on _____ (date) by _____ (court rep.)
 - ☐ Notification received on _____ from _____

All criminal history information is reported to the DOJ on the JUS 8715, the disposition reporting form. The information on this form includes all criminal firearms prohibitions.

Relief of Misdemeanor Prohibitions – Petitions for relief from PC12021(c)(1) misdemeanors:

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| <p><input type="checkbox"/> PC 12021(c)(2) – Any person employed as a peace officer with a conviction under section PC 273.5, 273.6 or 646.9 may petition the court once for relief. The petition must be filed with the sentencing court, if possible the same sentencing judge. If relief from the prohibition is granted under this section, the court shall require that the petitioner agree to participate in counseling as deemed appropriate.</p> <p><input type="checkbox"/> Date petition received _____</p> <p><input type="checkbox"/> Date of hearing _____</p> <p><input type="checkbox"/> Petitioner notified on _____ by _____ (court rep.)</p> <p><input type="checkbox"/> Prosecuting attorney notified on _____ by _____ (court rep.)</p> <p><input type="checkbox"/> Upon making each of the following findings, the court may reduce or eliminate the prohibition, impose conditions on reduction or elimination of the prohibition, or otherwise grant relief from the prohibition as the court deems appropriate:</p> <p><input type="checkbox"/> A) Preponderance of evidence petitioner is likely to use a firearm in a safe and lawful manner.</p> <p><input type="checkbox"/> B) That petitioner is not within a prohibited class as specified in PC 12021 (a), (b), (d), (e) or (g) or 12021.1 nor is a person described in W&I 8100 or 8103.</p> <p><input type="checkbox"/> C) Petitioner does not have a previous conviction under this subdivision no matter when the prior conviction occurred.</p> <p><input type="checkbox"/> Prohibition is:</p> <p><input type="checkbox"/> To remain in place</p> <p><input type="checkbox"/> Reduced</p> <p><input type="checkbox"/> Reduced with following conditions _____</p> <p><input type="checkbox"/> Eliminated</p> <p><input type="checkbox"/> Eliminated with following conditions _____</p> <p><input type="checkbox"/> Advise petitioner that relief of state misdemeanor prohibitions may not provide relief of federal lifetime prohibitions. (PC 243(e)(1), 273.5)</p> | <p><input type="checkbox"/> PC 12021(c)(3) – Any person who is subject to the prohibition imposed by this subdivision because of a conviction of an offense prior to that offense being added to 12021(c)(1) may petition the court once for relief. The petition must be filed with the sentencing court, if possible the same sentencing judge.</p> <p><input type="checkbox"/> Date petition received _____</p> <p><input type="checkbox"/> Date of conviction _____</p> <p><input type="checkbox"/> Date offense added to PC section 12021(c)(1) _____</p> <p><input type="checkbox"/> Date of hearing _____</p> <p><input type="checkbox"/> Petitioner notified on _____</p> <p><input type="checkbox"/> Prosecuting attorney notified on _____</p> <p><input type="checkbox"/> Upon making each of the following findings, the court may reduce or eliminate the prohibition, impose conditions on reduction or elimination of the prohibition, or otherwise grant relief from the prohibition as the court deems appropriate:</p> <p><input type="checkbox"/> A) Preponderance of evidence petitioner is likely to use a firearm in a safe and lawful manner.</p> <p><input type="checkbox"/> B) That petitioner is not within a prohibited class as specified in PC 12021 (a), (b), (d), (e) or (g) or 12021.1 nor is a person described in W&I 8100 or 8103.</p> <p><input type="checkbox"/> C) Petitioner does not have a previous conviction under this subdivision no matter when the prior conviction occurred.</p> <p><input type="checkbox"/> Prohibition is:</p> <p><input type="checkbox"/> To remain in place</p> <p><input type="checkbox"/> Reduced</p> <p><input type="checkbox"/> Reduced with following conditions _____</p> <p><input type="checkbox"/> Eliminated</p> <p><input type="checkbox"/> Eliminated with following conditions _____</p> <p><input type="checkbox"/> Advise petitioner that relief of state misdemeanor prohibitions may not provide relief of federal lifetime prohibitions. (PC 243(e)(1), 273.5)</p> |
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Mental Health Petitions for Relief of Prohibition

W&I 8102 [without 5150/5151/5152 commitment], W&I 8103(f)(4) [with 5150 commitment, 8103(g)(4) [5250, 5260, 5270.15 adjudications]

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| <p><input type="checkbox"/> Received hearing request from _____</p> <p><input type="checkbox"/> W&I 8102 Hearing date _____ (Must be within 30 days of receipt of petition)</p> <p><input type="checkbox"/> W&I 8103(f)(4) or (g)(4) Hearing date _____</p> <p><input type="checkbox"/> Hearing notifications:</p> <p><input type="checkbox"/> DOJ Notification date _____</p> <p><input type="checkbox"/> Certified mental health documents from DOJ received on _____ (date)</p> <p><input type="checkbox"/> Prosecutor requests 14 day continuance</p> <p><input type="checkbox"/> Case file from Prosecutor</p> <p><input type="checkbox"/> Mental health facility provided relevant information to court regarding case on _____ (date)</p> <p><input type="checkbox"/> Disclosed to: Prosecutor on _____ (date)</p> <p><input type="checkbox"/> In camera hearing requested on _____ (date)</p> <p><input type="checkbox"/> Petitioner found to be able to use firearms in a safe and lawful manner</p> <p><input type="checkbox"/> No <input type="checkbox"/> Yes If yes, notified DOJ on _____ (date)</p> <p><input type="checkbox"/> Advise petitioner that relief of state mental health prohibitions may not provide relief of federal lifetime prohibitions. (W&I 5250, 5260, 5270.15)</p> | <p><input type="checkbox"/> LEA <input type="checkbox"/> Subject on _____ (date)</p> <p><input type="checkbox"/> Petitioner Notification date _____</p> <p><input type="checkbox"/> Prosecutor Notification date _____</p> <p><input type="checkbox"/> No <input type="checkbox"/> Yes on _____ (date)</p> |
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